

Americans with Disabilities Act (ADA)



Questions & Answers for Healthcare Providers

Introduction

The Americans with Disabilities Act (ADA) prohibits discrimination against persons with disabilities in the area of employment, public accommodations, state and local government services, and telecommunications. Both public and private hospitals and health care facilities must provide their services to people with disabilities in a non-discriminatory manner. To do so, they may have to modify their policies and procedures, provide auxiliary aids and services for effective communication, remove barriers from existing facilities, and follow AqDA accessibility standards for new construction and alteration projects.

Covered Healthcare Providers

Q. Which healthcare providers are covered under the ADA?

A. Private hospitals, nursing homes, psychiatric and psychological services, offices of private physicians, dentists and health clinics are among the healthcare providers covered by Title III of the ADA. Title III applies to all private healthcare providers, regardless of size. It applies to providers of both physical and mental health care. If a professional office is located in a private home, the portion of the home used for public purposes is covered by the ADA.

Hospitals and other healthcare facilities that are operated by state or local government are covered by Title II of the ADA.

Policies and Procedures

Healthcare providers are required to modify policies and procedures when necessary to serve a person with a disability. However, the ADA does not require providers to make changes that would fundamentally alter the nature of their service.

Q. What kinds of modifications to policies or procedures might be required?

A. Modifying standard policies, practices or procedures can be an inexpensive but effective way to provide access to healthcare services. This may mean taking extra time to explain a procedure to a patient who is blind or ensuring that a person with mobility disability has access to an accessible exam room.



Q. Must the offices of healthcare providers allow service dogs in their buildings?

A. The ADA requires admission of service animals (refer to Passport's Service Animal Brochure for additional information), to hospitals and the offices of healthcare

providers unless it would result in a fundamental alteration or jeopardize safe operation. The determination of a direct threat to health or safety must be based upon medical or other evidence not on stereotype or conjecture.

Effective Communication, Auxiliary Aids & Services

Healthcare providers must find appropriate ways to communicate effectively with persons who have disabilities affecting their ability to communicate.

Various auxiliary aids and services such as interpreters, written notes, readers, larger print or Braille, can be used depending on the circumstance and the individual.

Q. Why are auxiliary aids and services so important in the medical setting?

A. Auxiliary aids and services are often needed to provide safe and effective medical treatment. Without these aids and services, medical staff runs the risk of not understanding the patient's symptoms, misdiagnosing the patient's medical problem, and prescribing inappropriate treatment. Similarly, patients may not understand medical instructions or warnings that may have a serious impact on their health.

Q. For whom must a healthcare provider offer effective communication?

A. A healthcare provider must ensure that its staff can communicate effectively with individuals with speech, hearing or vision disabilities. Such individuals may not always be patients of the healthcare provider. For example, if a parent is blind and is required to grant consent for their child's surgery, the contents of the consent must be communicated effectively to the parent. Passport will provide material in alternate formats for parents of minor children, blind/low vision members and interpreters for deaf members. In Ohio, South Carolina, Washington, and Puerto Rico providers are responsible for interpreter services. Please call the Member and Provider Contact Center for more information.



Q. Are there any limitations on the ADA's auxiliary aids and services requirements?

A. Yes. The ADA does not require the provision of any auxiliary aid or services that would result in an undue burden or fundamentally alter the nature of the goods or service provided by a healthcare provider. With that said, Passport will provide auxiliary aid and services as needed.

Q. When would providing an auxiliary aid or service be an "undue burden?"

A. An undue burden is something that involves a significant difficulty or expense. Key factors include the cost of the aid or service and the overall financial resources of the healthcare provider. Undue burden will always be determined on a case-by-case basis. The ADA recognizes that what constitutes an undue burden for a small office in a rural setting is different than for a large urban provider.

Q. How does a healthcare provider determine which auxiliary aid or service is best for a patient?

A. Ask your patient. There are various alternatives available and every person is different. Together you can identify the most effective method for communication.

Q. Can a patient be charged for part or all of the costs of receiving an auxiliary aid or service?

A. No. A healthcare provider cannot charge a patient for the costs of auxiliary aids and services, either directly or through the member's health plan.

Q. In what medical situation should a healthcare provider obtain a sign language interpreter?

A. If a patient or responsible family member usually communicates in Sign Language, an interpreter should be present in all situations in which the information exchanged is lengthy or complex (for example, discussing a patient’s medical history, conducting psychotherapy, communicating before or after major medical procedures, and providing complex instructions regarding medication). Note: Passport covers the cost of an interpreter for our members in many cases. In Ohio, South Carolina, Washington, and Puerto Rico providers are responsible for interpreter services. Please call the Member and Provider Contact Center for more information.

If the information to be communicated is simple and straight forward, such as prescribing an X-ray or a blood test, the physician may be able to communicate with the patient using pen and paper, however, you need to make sure the member is okay with this form of communication.

Existing Facilities / Barrier Removal

Q. When must private medical facilities eliminate architectural and communication barriers that are structural in nature from existing facilities?

A. When the removal of those barriers is readily achievable, meaning easy to accomplish, without much difficulty or expense. Like undue burden, readily available is determined on a case-by-case basis in light of the resources available to an individual provider.

Q. How does one remove “communication barriers that are structural in nature?”

A. For instance, install permanent signs, flashing alarm systems, visual doorbells and other notification devices, volume control telephones, assisted listening systems, and raised character and Braille elevator controls.

Q. Do most publicly funded healthcare providers meet special ADA requirements to make their existing buildings accessible?

A. Yes. Title II of the ADA requires public health-care providers to make all of their healthcare programs and services available to people with disabilities. However, they may do so in a variety of ways. If portions of their existing facility are inaccessible, they can relocate programs or services to accessible facilities, remove the architectural barriers that keep people with disabilities from using services, or find a different way to provide the services. The ADA also requires public providers to provide integrated access to their programs. They must make integrating people with disabilities into their regular programs a priority when they choose the best means to achieve program access.

For example, if a public clinic offers monthly childbirth classes on an upper floor of an older building without an elevator, the clinic has a number of options in how it may make this program accessible. It could install an elevator, schedule the class to a ground-floor classroom in the future, or relocate the class to a ground-floor room when individuals who use wheelchairs register for the class. Offering one-on-one or at-home instruction to a couple who could not access the child birth classes held in an inaccessible location is an option, but would be a less desirable one because the couple would not receive the services in an integrated setting.



New Construction and Alterations

Q. What do newly constructed or altered medical facilities have to do to make their facilities accessible?

A. The ADA requires healthcare providers to follow specific accessibility standards when constructing new facilities and when making alterations that could affect access to or use of the facility by persons with disabilities.

In addition, whenever an alteration is made to a primary function area, Title III requires that the path of travel from the entrance to the altered area must be accessible. The overall cost for providing this accessible path of travel need not exceed 20% of the original alteration costs. However, the facility is obligated to up to the 20% limit. The path of travel requirement covers sidewalks, lobbies and corridors; ramps, stairs, lifts, and elevators; and the restrooms, telephones and drinking fountains servicing the altered area.

Tax Credits

Q. Is there any money available to assist with ADA compliance costs?

A. Tax credits are available to businesses, including healthcare providers. Currently the amount credited may be up to \$5,000 per tax year. Eligible access expenditures include the costs of removing architectural and transportation barriers, and providing auxiliary aids and services.

Complaints

Q. What if a member thinks that a healthcare provider is not in compliance with the ADA?

A. If a healthcare provider cannot satisfactorily work out a patient's concerns, various means of dispute resolution including arbitration, mediation, or negotiation are available. Members should first contact Passport the Member and Provider Contact Center to have them assist in finding a provider that meets their access needs. Members also have the right to file an independent lawsuit in federal court, and to file a formal complaint with the U.S. Department of Justice.

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ADA Information Line

The U.S. Department of Justice provides information about the Americans with Disabilities Act (ADA) through a toll-free ADA Information Line. This service permits businesses, state and local governments, or others to call and ask questions about general or specific ADA requirements including questions about the ADA Standards for Accessible Design. ADA specialists are available Monday through Friday from 9:30 AM until 5:30 PM (Eastern Time) except on Thursday when the hours are 12:30 PM until 5:30 PM. Spanish language service is also available. For general ADA information, answers to specific technical questions, free ADA materials, or information about filing a complaint, call:

(800) 514-0301 (Voice)

(800) 514-0383 (TTY)

To request materials for Passport members in alternate formats or to inquire about interpreter services, please call the Passport Member and Provider Contact Center.